

Supreme Court of the United States

OCTOBER TERM, 1969

No. 1089

WILLIE E. WILLIAMS,

Appellant,

vs.

ILLINOIS

APPEAL FROM THE SUPREME COURT OF ILLINOIS

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11 (Court Branch)

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFF

v.

WILLIE E. WILLIAMS, DEFENDANT

COMPLAINT—Filed June 24, 1967

Edna Whitney, 219 No. 2nd Ave., Maywood, Ill., complainant, now appears before The Circuit Court of Cook County and in the name and by the authority of the People of the State of Illinois states that Willie E. Williams has, on or about June 24, 1967 at Rear of 219 No. 2nd Ave., Maywood, Ill. committed the offense of Theft in that he knowingly obtained unauthorized control over credit cards, checks and papers of the value of less than one hundred and fifty dollars, the property of Edna Whitney, intending to deprive the said Edna Whitney permanently of the use and benefits of said property, in violation of Chapter 38, Section 16-1a1, Illinois Revised Statute and Against the Peace and Dignity of the People of the State of Illinois.

/s/ Edna L. Whitney
(Complainant's Signature)

219 No. 2nd Ave.
(Complainant's Address)

FI 4-0341
(Telephone No.)

State of Illinois)
County of Cook) ss.

EDNA WHITNEY
(Complainant's Signature)

being first duly sworn, on Her oath, deposes and says that he has read the foregoing complaint by him and subscribed that the same is true.

/s/ Edna L. Whitney

Subscribed and sworn to before me June 24, 1967.

/s/ Joseph J. McDonough
Clerk
Dep. /s/ Illegible

I have examined the above complaint and the person presenting the same and have heard evidence thereon, and am satisfied that there is probably cause for filing same. Leave is given to file said complaint. Warrant issued.

Bail Fixed at \$ _____

Judge

11 (Court Branch)

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

67 MC4 53645

STATE OF ILLINOIS, PLAINTIFF

v.

WILLIE E. WILLIAMS, DEFENDANT

ARREST WARRANT—Issued June 24, 1967

The People of the State of Illinois to all Peace Officers
in the State—Greeting:

We command you to arrest Willie E. Williams, 1219
So. Damen, Chicago, Illinois for the offense of Theft
stated in a charge now pending before this court and that
you bring him instanter before The Circuit Court of
Cook County at 125 So. 5th Ave., Maywood, Illinois or
if I am absent or unable to act before the nearest or most
accessible court in Cook County or if this warrant is
executed in a county other than Cook, before the nearest
or most accessible judge in the county where the arrest
is made.

Issued in Cook County _____, 19____.

Bail fixed at \$2,000.

/s/ Harry A. Schrier
Judge

Witness: Joseph J. McDonough, Clerk of the Court
and the Seal thereof, at Chicago, June 24, 1967.

/s/ Joseph J. McDonough
Clerk
Dep. /s/ Illegible

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

BE IT REMEMBERED, that afterwards, to wit: on August 14th, 1967, the following among other proceedings were had and entered of record in said court which proceedings were and are in words and figures following to-wit:

Present Honorable Norman A. Korfist, One of the judges of the court.

JOHN J. STAMOS
States Attorney

JOSEPH F. WOODS
Sheriff

JOSEPH J. McDONOUGH
Clerk

No. 67 MC 4-53645 Criminal

THE PEOPLE OF THE STATE OF ILLINOIS

v.

WILLIE E. WILLIAMS

Now comes EDNA WHITNEY and in the name of the People of the State of Illinois, presents to the Court the complaint herein under oath, and moves the Court that leave be granted to file said complaint, and the Court having examined said complaint, and having examined under oath, the person presenting the same, and having heard the evidence thereon, and being satisfied that there is probable cause for filing the same, it is ordered that leave be granted to file said complaint instanter.

It appearing to the Court that the offense described in the complaint has been committed and it appearing to the Court that the defendant was arrested without process and is now here present in open Court, the Court takes jurisdiction of the person of said defendant, and the Sheriff of this Court is ordered forthwith to take the

body of said defendant into his custody and said defendant safely keep so that said Sheriff may have said defendant before the Court to answer to said people for and concerning the offense charged in said complaint and this order shall be sufficient warrant of said Sheriff for so doing.

Bond set at TWO THOUSAND DOLLARS (\$2,000.00).

It is further ordered by the Court that this cause be and the same is hereby postponed to AUGUST 16th, 1967, in Branch 11.

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

BE IT REMEMBERED, that afterwards, to wit: on August 16th, 1967, the following among other proceedings were had and entered of record in said court which proceedings were and are in words and figures following to-wit:

Present Honorable Harry A. Schrier, One of the Magistrates of the court.

JOHN J. STAMOS
States Attorney

JOSEPH I. WOODS
Sheriff

JOSEPH J. McDONOUGH
Clerk

No. 67 MC4 53645 Criminal

THE PEOPLE OF THE STATE OF ILLINOIS

v.

WILLIE E. WILLIAMS

Now come the people by the State's Attorney and the defendant as well in his own proper person also comes and thereupon on motion of the State, it is ordered by the Court that this cause be and the same is hereby postponed to SEPTEMBER 6th, 1967.

**IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS**

BE IT REMEMBERED, that afterwards, to wit: on September 6th, 1967, the following among other proceedings were had and entered of record in said court which proceedings were and are in words and figures following to-wit:

Present Honorable Joseph R. Gill, One of the Magistrates of the court.

JOHN J. STAMOS
States Attorney

JOSEPH I. WOODS
Sheriff

JOSEPH J. McDONOUGH
Clerk

No. 67 MC. 4 53645 Criminal

THE PEOPLE OF THE STATE OF ILLINOIS

v.

WILLIE E. WILLIAMS

Now come the people by the State's Attorney and the defendant as well in his own proper person and said defendant being forthwith demanded of and concerning the charge alleged against him in the complaint herein how he will acquit himself for a plea in that behalf says that he is not guilty in manner and form as charged in said complaint.

Said defendant being duly advised by the Court as to his right to a trial by jury in this cause, elects to waive a trial by jury and this cause is by agreement in open Court between the parties hereto, submitted to the Court for trial without a jury.

The people being now here represented by the State's Attorney and said defendant being present in his own proper person and the trial of this cause is now here en-

tered upon before the Court without a jury and the Court, after hearing all the testimony of the witnesses and the arguments of counsel, and being fully advised in the premises, renders the following finding, to-wit:

"THE COURT FINDS THE DEFENDANT GUILTY IN MANNER AND FORM AS CHARGED IN THE COMPLAINT HEREIN. WHEREFORE IT IS ORDERED THAT THE SAME BE ENTERED OF RECORD HEREIN".

The State's Attorney now here moves the Court for final judgment on the finding of guilty herein, said people being represented here by the State's Attorney and said defendant being present, in his own proper person and not saying anything further why the judgment of the Court should not now be pronounced against him on the finding of guilty entered in this cause, the Court finds that it has jurisdiction of the subject matter of this cause and of the parties hereto, and it is considered and adjudged by the Court that said defendant is guilty of the criminal offense as described in the complaint, on said finding of guilty.

It is therefore considered, ordered and adjudged that said defendant, because of said finding of guilty, be and he is hereby sentenced to confinement in the County Jail of Cook County, for the term of ONE (1) YEAR from and after the delivery of the body of said defendant to the jailer of said County and it is further considered, ordered and adjudged that said defendant, because of said finding of guilty, be further sentenced to pay to the Clerk of this Court, to be by said Clerk disposed of according to law, a fine in the sum of FIVE HUNDRED DOLLARS (\$500.00) and also the costs of this suit taxed at FIVE DOLLARS (\$5.00) and in default of payment of said fine, it is ordered that said defendant, after the expiration of said term of imprisonment, stand committed in said County Jail until said fine and costs shall have been paid or until said defendant shall have been discharged according to law. And the Sheriff of this Court is hereby commanded to take the body of said defendant from the bar of this Court and deliver said body

to the keeper of said jail, and the keeper of said jail is hereby commanded to receive the body of said defendant into his custody and confine said body in said County Jail in safe and secure custody for and during said term as aforesaid, and after the end of said term of imprisonment, the keeper of said jail is hereby commanded to continue to confine the body of said defendant in said County Jail in safe and secure custody until said fine shall have been paid or until said defendant shall have been discharged according to law, and after the expiration of said fixed term of imprisonment as aforesaid and after said fine and costs shall have been paid as aforesaid, said defendant shall be thereafter discharged.

It is further ordered that execution issue herein against said defendant for the amount of said fine.

IN THE CIRCUIT COURT OF COOK COUNTY
FOURTH MUNICIPAL DISTRICT—
CRIMINAL DIVISION

67 MC4-53645

Received Criminal Court Bldg. Nov. 27, 1967
John J. Stamos, States Attorney

PEOPLE OF THE STATE OF ILLINOIS

vs.

WILLIE E. WILLIAMS

NOTICE OF MOTION—Filed November 29, 1967

To: John J. Stamos
State's Attorney of Cook County
2600 South California Avenue
Chicago, Illinois 60608

PLEASE TAKE NOTICE that on Wednesday, November 29, 1967, at 9:30 A.M., or as soon thereafter as counsel can be heard, I shall appear before the Presiding Judge of the Fourth Municipal District in Oak Park, Illinois, and then and there present the attached Petition.

/s/ Stanley A. Bass
Attorney For Defendant
Civil Legal Aid Service
Cook County Jail
Chicago, Illinois 60608
523-0101 ext. 30

Dated: November 27, 1967

IN THE CIRCUIT COURT OF COOK COUNTY
FOURTH MUNICIPAL DISTRICT—
CRIMINAL DIVISION

67 MC4-53645

PEOPLE OF THE STATE OF ILLINOIS

vs.

WILLIE E. WILLIAMS

PETITION—Filed November 29, 1967.

Defendant, WILLIE E. WILLIAMS, by his attorneys, Stanley A. Bass and Melvin B. Goldberg, Civil Legal Aid Service, Cook County Jail, respectfully submits his Petition, pursuant to Section 72 of the Illinois Civil Practice Act and Section 180-6 of Chapter 38, Ill. Rev. Stat., to vacate that portion of the Court's order of September 6, 1967, which directs that defendant stand committed to Cook County Jail in default of payment of \$505 fine and costs.

In support of this Petition, defendant states:

1. Defendant WILLIE E. WILLIAMS is an indigent inmate of the Cook County Jail in Chicago, Illinois.
2. Defendant has no estate, funds, or valuable property whatsoever, and he is represented herein by legal aid counsel furnished without cost to him.
3. On August 13, 1967, defendant was arrested for petty theft, and on the following day he was brought before the Fourth Municipal District of the Circuit Court of Cook County for arraignment. Bail was set at \$2,000. The Court continued the case to August 16, 1967, and committed defendant to Cook County Jail for failure to provide bail.
4. On August 16, 1967, on motion of the State's Attorney, the case was continued to September 6, 1967. Defendant remained in custody.
5. On September 6, 1967, defendant was tried by the Honorable Joseph R. Gill, sitting without a jury.

The Court found defendant guilty as charged of petty theft, and sentenced him to one year imprisonment in Cook County Jail. The Court further imposed a \$500 fine and \$5 costs, and directed that, in default of payment of same, defendant should stand committed to jail to satisfy the unpaid fine and costs at the rate of \$5 per day.

6. Defendant was not represented by counsel at trial, and he was financially unable to obtain counsel. The Court did not advise defendant of his right to have assistance of counsel at trial, or of his right to appointment of counsel, if he is indigent. Defendant did not knowingly and intentionally waive his right to assistance of counsel for his defense.

7. At the time of the imposition of sentence, it should have been apparent to the Court that defendant was financially unable to pay the \$505 fine and costs, since he was unable to post \$200 as 10% bail bond deposit, he was unable to earn wages since his incarceration on August 13, 1967, and he was financially unable to hire an attorney.

8. Since September 6, 1967 and continuing through the present time, defendant is, and has been, without funds to pay the fine and court costs.

9. Defendant will be able to get a job and earn funds to pay the fine and costs, if he is released from jail upon expiration of his one year sentence.

10. At all times relevant herein, Chapter 38, Section 180-6, Ill. Rev. Stat., provided:

Whenever it shall be made satisfactorily to appear to the court, after all legal means have been exhausted, that any person who is confined in jail for any fine or costs of prosecution, for any criminal offense, hath no estate wherewith to pay such fine and costs, or costs only, it shall be the duty of the said court to discharge such person from further imprisonment for such fine and costs, which discharge shall operate as a complete release of such fine and costs: Pro-

vided, that nothing herein shall authorize any person to be discharged from imprisonment before the expiration of the time for which he may be sentenced to be imprisoned, as part of his punishment.

11. At all times relevant herein, Article II, Section 12, Illinois Constitution, provided:

No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases where there is strong presumption of fraud.

12. In addition, imprisonment of an indigent misdemeanor in excess of one year, due to his financial inability to pay \$505 fine and court costs, violates the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution. *People v. Saffore*, 18 N.Y. 2d 101, 218 N.E. 2d 686, 271 N.Y.S. 2d 972 (1966); *Griffin v. Illinois*, 351 U.S. 12 (1956); *People ex rel. Herring v. Woods*, 37 Ill. 2d 435, 226 N.E. 2d 594 (1967).

WHEREFORE, defendant prays that this Court vacate that portion of its order of September 6, 1967, which directs that defendant stand committed to Cook County Jail in default of payment of \$505 fine and costs, and grant defendant sufficient time in which to obtain funds to pay said fine and costs, and grant such other relief as the Court may deem just and appropriate.

Respectfully submitted,

/s/ Stanley A. Bass
Attorney For Defendant
Civil Legal Aid Service
Cook County Jail
Chicago, Illinois 60608
523-0101 ext. 30

[Duly sworn to by Willie E. Williams jurat omitted
in printing (all in italics)]

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS

BE IT REMEMBERED, that afterwards, to wit: on November 29th, 1967, the following among other proceedings were had and entered of record in said court which proceedings were and are in words and figures following to-wit:

Present Honorable Joseph R. Gill, One of the Magistrates of the court.

JOHN J. STAMOS
States Attorney

JOSEPH I. WOODS
Bailiff

JOSEPH J. McDONOUGH
Clerk

No. 67 MC 4 53645 Criminal

THE PEOPLE OF THE STATE OF ILLINOIS

v.

WILLIE E. WILLIAMS

It is ordered by the Court that the petition to vacate order of SEPTEMBER 6th, 1967, be and the same is hereby denied.

IN THE CIRCUIT COURT OF COOK COUNTY
FOURTH MUNICIPAL DISTRICT—
CRIMINAL DIVISION

67 MC4-53645
(Maywood)

PEOPLE OF THE STATE OF ILLINOIS

vs.

WILLIE E. WILLIAMS

NOTICE OF APPEAL—Filed November 30, 1967

An appeal is hereby taken to the Illinois Supreme Court from the final judgment and order entered in the above entitled cause, on November 29, 1967, dismissing a Petition brought under Section 72 of the Illinois Civil Practice Act and Section 180-6 of Chapter 38, Ill. Rev. Stat., which sought to vacate portion of order of September 6, 1967, directing that defendant stand committed to jail in default of payment of fine and costs.

WILLIE E. WILLIAMS
No. 413847
2600 South California Avenue
Chicago, Illinois 60608

By: /s/ Stanley A. Bass
STANLEY A. BASS
Attorney For Defendant

Civil Legal Aid Service
Cook County Jail
Chicago, Illinois 60608
523-0101 ext. 30

BE IT REMEMBERED, that to-wit on NOVEMBER 30TH, 1967, a certain PROOFS OF SERVICE OF NOTICE OF APPEAL was filed in the office of the Clerk.

[Omitted in Printing]

BE IT REMEMBERED, that to-wit on DECEMBER 4TH, 1967, a certain PRAECIPE FOR RECORD AND PROOF OF SERVICE [omitted in printing].

[Clerk's Certificate to foregoing transcript omitted in printing.]

IN THE SUPREME COURT OF ILLINOIS

Filed Jan 31, 1968

Mrs. Earle Benjamin Searcy, Clerk

No. 41131

PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFF-APPELLEE

vs.

WILLIE E. WILLIAMS, DEFENDANT-APPELLANT

NOTICE

To: Stanley A. Bass, Esq.
Melvin B. Goldberg, Esq.,
Attorneys for Appellant
Civil Legal Aid Service
Cook County Jail
Chicago, Illinois 60608

PLEASE TAKE NOTICE that on Tuesday, January 30, 1968, at 10:00 a.m., we shall appear before the Honorable Walter V. Schaefer, Justice of the Supreme Court of Illinois, in the Chicago Civic Center, Chicago, Illinois, and then and there present the attached Motion and Affidavit.

JOHN J. STAMOS,
State's Attorney of Cook County

By: /s/ Oliver D. Ferguson
Assistant State's Attorney

State of Illinois)
) SS
County of Cook)

Madeline K. Pavletic, being first duly sworn on oath,
says that she served the above and foregoing Notice,

Motion and Affidavit thereto attached by mailing to the above-named attorneys on Thursday, January 25, 1968.

/s/ Madeline K. Pavletic

Subscribed and sworn to before me this 25th day of January, A.D., 1968.

/s/ Donald E. Erickson
Notary Public

State of Illinois)
) SS
County of Cook)

AFFIDAVIT

OLIVER D. FERGUSON, being first duly sworn on oath, deposes and says:

That he is a duly appointed and acting Assistant State's Attorney of Cook County, Illinois, assigned to the Criminal Appeals Division;

That on September 6, 1967, at a bench trial in the Fourth Municipal District of the Circuit Court of Cook County, the Honorable Joseph R. Gill, presiding in Cause No. 67 MC 4 53645, the appellant was found guilty of theft in violation of § 16-1(a)(1) of the Criminal Code;

That judgment was thereupon entered on the finding of guilty and the appellant was sentenced to serve one (1) year in the County Jail and further sentenced to pay a fine of Five Hundred Dollars (\$500.) and costs of Five Dollars (\$5.00) and, in default of payment of said fine, it was ordered that the appellant, after the expiration of the term of imprisonment, stand committed in the County Jail until said fine and costs shall have been paid

or until the appellant shall have been discharged according to law;

That on November 29, 1967, the appellant, acting through his present counsel, appeared before Magistrate Joseph R. Gill in the Fourth Municipal District of the Circuit Court of Cook County and presented a petition to vacate that portion of the sentence directing the appellant to stand committed to the County Jail after the expiration of his term of imprisonment in default of payment of his fine of \$500 and \$5.00 costs. The petition sought relief pursuant to § 72 of the Civil Practice Act and Ill.Rev.Stat. 1965, ch.38, § 180-6;

That the appellant's petition was denied on November 29, 1967, and that the instant appeal was taken from the order denying the petition;

That the record on appeal contains no report of proceedings from the trial on September 6, 1967, and no report of the colloquy between the court and counsel on November 29, 1967; when the appellant's petition to vacate a portion of the sentence was presented and denied;

That the facts underlying the sentence and the basis for the denial of the petition to vacate a portion of the sentence are essential to a proper presentation of the issues of law purportedly raised on this appeal;

That although the brief for appellant alleges that the sentencing magistrate denied the petition to vacate a portion of the sentence for legal insufficiency (Appellant's Br., p. 3), that portion of the sentence ordering the appellant to stand committed to the County Jail in default of payment of his fine could not become operative until the expiration of his term of imprisonment;

That portion of the order sentencing the appellant which the appellant sought to vacate by petition was interlocutory in nature and provisional upon the appellant's being in default at a future time, namely at the time of the expiration of his term of imprisonment;

That absent some records or report of the colloquy between the court and counsel specifically setting forth the context in which appellant's petition was denied on November 29, 1967, there are insufficient facts now be-

fore this Honorable Court to raise for review the issues of law set forth in the brief for appellant;

That the rules of this Honorable Court provide that where no verbatim transcript is obtainable, the appellant may prepare a proposed report of proceedings from the best available sources, including recollection. Rule 323 (c). That rule is specifically applicable to criminal appeals. Rule 612 (c).

WHEREFORE, your affiant prays that this Honorable Court enter an order requiring the appellant to prepare a proper record on appeal in conformity with Rule 608 and Rule 323 (c) of the Rules of this Honorable Court, or, in the alternative, to order this appeal stricken for failure of the Record adequately to show at this time any justiciable controversy.

/s/ Oliver D. Ferguson

Subscribed and sworn to before me this 25th day of January, A.D., 1967.

/s/ Donald E. Erickson
Notary Public

IN THE SUPREME COURT OF ILLINOIS

No. 41131

PEOPLE OF THE STATE OF ILLINOIS, APPELLEE

vs.

WILLIE E. WILLIAMS, APPELLANT

APPELLEE'S MOTION TO REQUIRE APPELLANT TO PREPARE
A PROPER RECORD FOR APPEAL, OR, IN THE ALTERNATIVE,
TO STRIKE THE INSTANT APPEAL AS PREMATURE

Now come the People of the State of Illinois, through
their attorney, JOHN J. STAMOS, State's Attorney of
Cook County (Oliver D. Ferguson), and move this Hon-
orable Court to enter an order requiring the appellant
to prepared a proper record for appeal in conformity
with Rules 612(c) and 323 (c) of the Rules of this Hon-
orable Court, or, in the alternative, to strike the instant
appeal as premature.

JOHN J. STAMOS,
State's Attorney of Cook County

By: /s/ Oliver D. Ferguson
OLIVER D. FERGUSON
Assistant State's Attorney

IN THE SUPREME COURT OF ILLINOIS
IN VACATION AFTER THE JANUARY 1968 TERM

No. 41131

PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFF-APPELLEE

vs.

WILLIE E. WILLIAMS, DEFENDANT-APPELLANT

ORDER—Dated January 30, 1968.

This cause coming on to be heard, upon the Motion of the People of the State of Illinois, Appellee,

IT IS ORDERED that a bystander's bill of exceptions covering the proceedings of November 29, 1967, be filed by appellant on or before February 15, 1968, and that the appellee's brief be filed within 35 days thereafter.

Dated at Chicago, Illinois, this 30th day of January, 1968.

ENTER:

/s/ Walter V. Schaefer
Justice of the
Supreme Court of Illinois

IN THE SUPREME COURT OF ILLINOIS

No. 41131

PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFF-APPELLEE

vs.


WILLIE E. WILLIAMS, DEFENDANT-APPELLANT

APPELLANT'S ANSWER TO APPELLEE'S MOTION TO REQUIRE
APPELLANT TO PREPARE A PROPER RECORD FOR APPEAL OR
TO STRIKE APPEAL—Filed January 31, 1968

Defendant-appellant WILLIE E. WILLIAMS, by his attorneys, Stanley A. Bass and Melvin B. Goldberg, Civil Legal Aid Service, Cook County Jail, respectfully submits his answer to the motion of appellee to require appellant to prepare a proper record for appeal, or to strike appeal, and in support thereof states as follows:

1. All proceeding in the court below—trial and hearing on post-trial Petition—occurred in Maywood in the absence of an official court reporter.
2. At all times relevant herein, Chapter 37, Section 163 f(3) provided,

The official court reporter shall transcribe and furnish an original and copy of the proceedings at the trial of any person sentenced to any imprisonment where, pursuant to Rule (65-1) of the Illinois Supreme Court, an order is or has been entered so requiring. (Applicable rule inserted)

3. Said statute presupposes the obligation to have an official court reporter attend every criminal trial in which the defendant is sentenced to imprisonment.
 4. Without waiving his objections to the validity and propriety of such non-reported proceedings, appellant
- 

agrees to attempt immediately to construct a bystander's bill of exceptions, in accordance with the provisions of Illinois Supreme Court Rule 323(c).

Respectfully submitted,

/s/ Stanley A. Bass
Attorney For Appellant

STANLEY A. BASS
MELVIN B. GOLDBERG

Civil Legal Aid Service
Cook County Jail
Chicago, Illinois 60608
523-0101 ext. 30

IN THE CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
FOURTH MUNICIPAL DISTRICT—
CRIMINAL DIVISION

No. 41131

67 MC4-53645
(Maywood)

PEOPLE OF THE STATE OF ILLINOIS

vs.

WILLIE E. WILLIAMS

BYSTANDER'S BILL OF EXCEPTIONS—
Filed February 15, 1968

PROPOSED REPORT OF PROCEEDINGS at the
hearing of the above entitled cause before the Honorable
Joseph R. Gill, Judge of the said Court, on the 29th day
of April, 1967.

APPEARANCES:

HON. JOHN J. STAMOS
State's Attorney, by

MR. EDWARD ROMAN
Assistant State's Attorney
appeared on behalf of the People;

MR. STANLEY A. BASS,
appeared on behalf of defendant.

Defendant was not present.

Counsel for defendant summarized the allegations of
his verified Petition to vacate that portion of the Court's
order of September 6, 1967, which directs that defend-
ant stand committed to Cook County Jail in default of
payment of \$505 fine and costs.

Counsel for the People orally moved that the Petition be denied. No testimony or evidence was received, and no court reporter was present.

The Court denied the Petition on its face for the reason that petitioner was not legally entitled at that time to the relief requested in the Petition, because he still has time to serve on his jail sentence, and when that sentence has been served his financial ability to pay a fine might not be the same as it is of the date of Sept. 6, 1967.

APPROVED:

/s/ Joseph R. Gill
Judge

February 14, 1968

IN THE SUPREME COURT OF ILLINOIS

No. 41131

Filed May 1, 1968, Clell L. Woods, Clerk

PEOPLE OF THE STATE OF ILLINOIS, APPELLEE

vs.

WILLIE E. WILLIAMS, APPELLANT

NOTICE

To: Stanley A. Bass, Esq.
 Civil Legal Aid Service
 Cook County Jail
 2600 South California Avenue
 Chicago, Illinois 60608

PLEASE TAKE NOTICE that on Tuesday, April 16, 1968, at 10:00 a.m., we shall appear before the Honorable Walter V. Schaefer, Justice of the Supreme Court of Illinois, in the Chicago Civic Center, Chicago, Illinois, and then and there present the attached Motion and Affidavit.

JOHN J. STAMOS,
 State's Attorney of Cook County

By: /s/ Oliver D. Ferguson
 Assistant State's Attorney

State of Illinois)
) SS
 County of Cook)

Virginia E. Murphy, being first duly sworn on oath, says that she served the above and foregoing Notice, Motion and Affidavit thereto attached by mailing to the above-named attorney on April 15, 1968. That attorney for appellant has waived notice of the instant motion.

/s/ Virginia E. Murphy

Subscribed and sworn to before me this 15th day of April, A.D., 1968.

/s/ Donald E. Erickson
 Notary Public

State of Illinois)
) SS
 County of Cook)

AFFIANT

OLIVER D. FERGUSON, being first duly sworn on oath, deposes and says:

That he is a duly appointed and acting Assistant State's Attorney of Cook County, Illinois, assigned to the Criminal Appeals Division;

That on September 6, 1967, at a bench trial in the Fourth Municipal District of the Circuit Court of Cook County, the Honorable Joseph R. Gill, presiding in Cause No. 67 MC 4 53645, the appellant was found guilty of theft in violation of § 16-1(a)(1) of the Criminal Code;

That judgment was thereupon entered on the finding of guilty and the appellant was sentenced to serve one (1) year in the County Jail and further sentenced to pay a fine of Five Hundred Dollars (\$500) and costs of Five Dollars (\$5.00) and, in default of payment of said fine, it was ordered that the appellant, after the expiration of the term of imprisonment, stand committed in the County Jail until said fine and costs shall have been paid or until the appellant shall have been discharged according to law;

That on November 29, 1967, the appellant, acting through his present counsel, appeared before Magistrate Joseph R. Gill in the Fourth Municipal District of the Circuit Court of Cook County and presented a petition to vacate that portion of the sentence directing the appellant to stand committed to the County Jail after the expiration of his term of imprisonment in default of payment of his fine of \$500 and \$5.00 costs. The petition sought relief pursuant to § 72 of the Civil Practice Act and Ill. Rev. Stat., 1965, ch. 38, § 180-6;

That the appellant's petition was denied on November 29, 1967, and that the instant appeal was taken from the order denying the petition;

That on February 15, 1968, a Bystander's Bill of Ex-

ceptions was filed in the Office of the Clerk of this Honorable Court in which the Magistrate before whom the cause was tried stated that he had denied the petition to vacate a portion of the sentence because the defendant was not legally entitled at that time to the relief requested in the Petition to vacate, and "because he still has time to serve on his jail sentence and when that sentence has been served his financial ability to pay a fine might not be the same" as it was on September 6, 1967;

That the issues argued before this Honorable Court at the January Term in People of the State of Illinois ex rel. Hosea Jackson versus C. William Ruddell, Superintendent, Municipal House of Correction are still pending before the court and the opinion of this court in that case could very well settle the point at issue in the instant case;

WHEREFORE, the People of the State of Illinois, as appellee in the above-styled cause, request an extension of time for the filing of a Brief until June 5, 1968.

/s/ Oliver D. Ferguson

Subscribed and sworn to before me this 15th day of April, A.D., 1968.

/s/ Donald E. Erickson
Notary Public

IN THE SUPREME COURT OF ILLINOIS

No. 41131

PEOPLE OF THE STATE OF ILLINOIS, APPELLEE

vs.

WILLIE E. WILLIAMS, APPELLANT

MOTION

The People of the State of Illinois, by their attorney, JOHN J. STAMOS, State's Attorney of Cook County, Illinois, move for the entry of an order extending the time for filing the Brief and Argument for the People in this cause to and including June 5, 1968, and in support of said Motion submit the following Affidavit.

JOHN J. STAMOS,

State's Attorney of Cook County

By: /s/ Oliver D. Ferguson

Assistant State's Attorney

IN THE SUPREME COURT OF ILLINOIS

No. 41131

Filed May 1, 1968, Clell L. Woods, Clerk

PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFF-APPELLEE

vs.

WILLIE E. WILLIAMS, DEFENDANT-APPELLANT

ORDER

On Motion of the People of the State of Illinois, it is hereby Ordered that the Brief and Argument for the People of the State of Illinois be filed to and including May 2, 1968.

ENTER:

/s/ Thomas E. Kluczy

Justice of the

Supreme Court of Illinois

IN THE SUPREME COURT OF ILLINOIS

No. 41131

Received Criminal Court Bldg. May 22, 1968
John J. Stamos, States Attorney

PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFF-APPELLEE

vs.

WILLIE E. WILLIAMS, DEFENDANT-APPELLANT

MOTION TO ENLARGE DEFENDANT-APPELLANT ON HIS
OWN RECOGNIZANCE BOND OR REASONABLE BOND PENDING
DECISION HEREIN

Defendant-appellant, WILLIE WILLIAMS, by his attorney, Stanley A. Bass, respectfully moves for an order enlarging him on recognizance bond or reasonable bond pending the Court's decision herein, and in support thereof states as follows:

1. On May 23, 1968, defendant-appellant, WILLIE WILLIAMS, will have completed service of his one year sentence to imprisonment in Cook County Jail, with time off for good conduct and for time spent in custody awaiting trial. (See attached jail record.)
2. On May 23, 1968, Willie Williams begins incarceration in Cook County Jail in default of payment of his \$505 fine and costs, at the rate of \$5 per day, and he is scheduled to be released on August 31, 1968. (See attached jail record.)
3. The instant appeal, which was argued orally on May 16, 1968, challenges the constitutional validity of that portion of the sentencing judge's order directing that defendant stand committed to jail in default of payment of \$505 fine and costs, which would result in the indigent defendant spending more total time in jail for petty theft than his more affluent counterpart, in violation of equal protection of the

laws. *People v. Saffore*, 18 N.Y. 2d 101, 218 N.E. 2d 686 (1966).

4. In order to prevent the serious constitutional issue in this case from becoming moot, and in order to avoid further incarceration of the defendant—which this Court may find to be unlawful, it is appropriate to enlarge the indigent defendant-appellant on his own recognizance bond or reasonable bond pending the Court's decision herein.

WHEREFORE, defendant-appellant prays that the relief requested herein be granted.

Respectfully submitted,

/s/ Stanley A. Bass
STANLEY A. BASS
Attorney For Appellant

State of Illinois)
) ss
County of Cook)

STANLEY A. BASS, being first duly sworn on oath, deposes and says: I have read the above motion, and know the contents thereof to be true and correct to the best of my knowledge and belief.

/s/ Stanley A. Bass
Affiant

Subscribed and sworn to before me this 22nd day of May, 1968.

/s/ [Illegible]
Notary Public
My commission expires May 1, 1970

RM 50

MAYWOOD

INMATE'S RECORD - COOK COUNTY JAIL

INDICTMENT NUMBER	HOW HELD	BAIL	COMMITTED BY	CHARGE	Date Charges Record
MC4-53645	CASE CONT. 8-16-67 9/6	2000	KORFIST	THEFT	AUG 14 1968

T. DATES JUDGE	DATE	CT. DATES JUDGE	DATE	CT. DATES JUDGE	DATE

SENTENCE WITHOUT G. T. AUG 13 1968

JUN 14 1968

MAY 23 1968 ✓

AUTHORIZED BY

With Fine Worked out
101 Days P⁵ P⁵ day

AUG 31 1968 ✓

ARRANTS:

ECIAL ORDERS:

WITH: ✓

SENT TO C. C. J. ① yr. and 505 -

BY JUDGE: Lill

DATE: SEP 6 1967

RELEASED:

HOW RELEASED:

K	Floor	Cell	Date	Time	REMARKS:	Block	Floor	Cell	Date	Time	REMARKS:
1	3		9-7-67		P.T. Jim						
1	3		9-8-67		Laundry Jim						
1	3		2-28-68								
1	2		4-9-68		Tailor Shop Jim						

RESS: 1847 W. HASTING

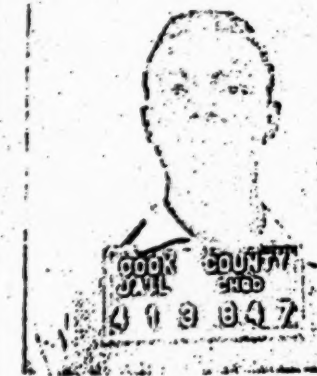
NAME

JAIL NO: 413847

ALIAS

TIME ENTERED: 3:55 p.m.

WILLIAMS WILLIE E



UNITED STATES OF AMERICA

State of Illinois)
) SS.
 Supreme Court)

At a Term of the Supreme Court, began and held in Springfield, on Monday, the thirteenth day of May in the year of our Lord, one thousand nine hundred and sixty-eight, within and for the State of Illinois.

PRESENT: ROY J. SOLFISBURG, JR., CHIEF JUSTICE
 JUSTICE WALTER V. SCHAEFER
 JUSTICE BYRON O. HOUSE
 JUSTICE THOMAS E. KLUCZYNSKI
 JUSTICE RAY I. KLINGBIEL
 JUSTICE ROBERT C. UNDERWOOD
 JUSTICE DANIEL P. WARD
 WILLIAM G. CLARK, ATTORNEY GENERAL
 ROBERT G. MILEY, MARSHAL
 ATTEST: CLELL L. WOODS, CLERK

BE IT REMEMBERED, that, to-wit: on the 28th day of May, A.D. 1968, the same being one of the days of the term of Court aforesaid, the following proceedings were, by said Court, had and entered of record, to-wit:

No. 41131

PEOPLE STATE OF ILLINOIS, APPELLEE

vs.

WILLIE E. WILLIAMS, APPELLANT

APPEAL FROM CIRCUIT COURT COOK COUNTY
 (Municipal Division)

And now, on this day, the Court having duly considered the motion by appellant that he be admitted to bail, and being fully advised of and concerning the premises;

IT IS HEREBY ORDERED that the motion by appellant that he be admitted to bail be, and the same is, allowed, and bond fixed in the amount of \$500.00 to be approved by the Warden of the Cook County Jail.

IN THE SUPREME COURT OF ILLINOIS

Docket No. 41131—Agenda 24—May, 1968

THE PEOPLE OF THE STATE OF ILLINOIS, APPELLEE

vs.

WILLIE E. WILLIAMS, APPELLANT

OPINION—Filed January 29, 1969

MR. JUSTICE HOUSE delivered the opinion of the court:

The sole question raised by this appeal is whether imprisonment of an indigent defendant to satisfy his fine constitutes a denial of equal protection of the law under the rationale of *Griffin v. Illinois*, 351 U.S. 12, 100 L. Ed. 891, 76 S. Ct. 585.

On August 16, 1967, defendant, Willie E. Williams, was convicted of theft of property not from the person and not exceeding \$150 in value in a bench trial in the circuit court of Cook County. The court sentenced him to one year imprisonment in the county jail and imposed a fine of \$500, a maximum sentence for this offense (Ill. Rev. Stat. 1967, ch. 38, par. 16—I), and \$5 costs. The judgment order provides that in default of payment of the fine and costs defendant should stand committed to jail to satisfy the fine and costs at the rate of \$5 per day of imprisonment.

On November 29, 1967, defendant filed a petition under section 72 of the Civil Practice Act, alleging under oath that he was indigent at all stages of the proceedings, that he was without counsel or funds to hire counsel at the trial and that he will be able to get a job and earn funds to pay the fine and costs if he is released from jail upon expiration of his one-year sentence. He prayed that the trial court vacate that portion of the order directing that he stand committed to jail in default of the payment of the fine and costs. The court denied the petition because of its legal insufficiency and defendant appealed directly to this court alleging that the denial of his petition deprived him of equal protection of the law

guaranteed by the fourteenth amendment to the Federal constitution.

The authority for imprisonment to enforce payment of a fine comes from section 1—7(k) of the Criminal Code of 1961. (Ill. Rev. Stat. 1967, ch. 38, par. 1—7(k).) This section provides, "Working out Fines. A judgment of a fine imposed upon an offender may be enforced in the same manner as a judgment entered in a civil action; Provided, however, that in such judgment imposing the fine the court may further order that upon non-payment of such fine, the offender may be imprisoned until the fine is paid, or satisfied at the rate of \$5.00 per day of imprisonment; Provided, further, however, that no person shall be imprisoned under the first proviso hereof for a longer period than 6 months."

The basis of defendant's equal-protection theory seems to find its origin in a dissenting opinion in *Wildeblood v. United States* (D.C. Cir. 1960), 284 F.2d 592. It was there stated: "When the person sentenced cannot pay the fine and is therefore imprisoned, the constitutional question arises. The answer seems clear. The cases on which the court [the majority opinion] relies were decided many years ago, [*Ex parte Jackson*, 1877, 96 U.S. 727, 24 L. Ed. 877; *Bowles v. District of Columbia*, 1903, 22 App. D.C. 321; *Hill v. Wampler*, 1936, 298 U.S. 460, 56 S. Ct. 760, 80 L. Ed. 1283; *Yeager v. District of Columbia*, D.C. Mun. App. 1943, 33 A.2d 629,] and the constitutional question does not appear to have been raised. More recently, the Supreme Court has repeatedly held that 'invidious discriminations' in the administration of criminal justice are unconstitutional. *Griffin v. Illinois*, 1956, 351 U.S. 12, 17, 76 S. Ct. 585, 100 L. Ed. 891; *Eskridge v. Washington Prison Board*, 1958, 357 U.S. 214, 78 S. Ct. 1061, 2 L. Ed. 2d 1269; *Burns v. Ohio*, 1959, 360 U.S. 252, 79 S. Ct. 1164, 3 L. Ed. 2d 1209. Specifically, the Court has held that 'There can be no equal justice where the kind of trial a man gets depends on the amount of money he has.' *Griffin v. Illinois*, 351 U.S. 12, 19, 76 S. Ct. 100 L. Ed. 891. Few would care to say there can be equal justice where the kind of punishment a man gets depends on the amount of money he has." (284 F.2d 592,

594). The majority in *Wildeblood* followed cases decided prior to *Griffin* wherein imprisonment for nonpayment of a fine was permitted and simply stated, "We do not think these cases are overruled by *Griffin v. Illinois* * * *." 284 F.2d 592, 598.

In *United States ex rel. Privitera v. Kross* (S.D.N.Y.), 239 F. Supp. 118, aff'd (2d cir.) 345 F.2d 533, cert. denied 382 U.S. 911, 15 L. Ed. 2d 163, 86 S. Ct. 254, the issue raised in the *Wildeblood* dissent was again decided adversely to the indigent defendant. After noting that a defendant "has no constitutional right that another defendant, no matter what his economic status, rich or poor, receive the same sentence for the same offense," the court stated: "No different conclusion is required by the line of cases beginning with *Griffin v. People of State of Illinois*. Those decisions making review of criminal convictions available to the indigent have not yet been construed to compel government, State or Federal, to eradicate from the administration of criminal justice every disadvantage caused by indigence." (239 F. Supp. 118, 120-121.) In support of this statement the court cited "*Norvell v. State of Illinois*, 373 U.S. 420, 83 S. Ct. 1336, 10 L. Ed. 2d 456 (1963); *United States ex rel. Marshall v. Wilkins*, 338 F.2d 404 (2d Cir. 1964) (no absolute right to appointment of counsel on habeas corpus petitions); *United States ex rel. Combs v. Denno*, 231 F. Supp. 942, 945 (S.D.N.Y. 1964); *Mastrian v. Hedman*, 326 F.2d 708 (8th Cir.) cert. denied, 376 U.S. 965, 84 S. Ct. 1128, 11 L. Ed. 2d 982 (1964) (may impose bail on those without funds); *Pilkinton v. Circuit Court*, 324 F.2d 45 (8th Cir. 1963); *Stern & Gressman*, Supreme Court Practice 219 (3d ed. 1962) (no right to appointment of counsel on petition for certiorari)." 239 F. Supp. 118, 121 n. 12.

In view of this holding in *Kross* which was affirmed by the Second Circuit Court of Appeals and to which a writ of *certiorari* was denied by the Supreme Court, we do not feel justified in holding that imprisonment of an indigent defendant to satisfy his fine constitutes a denial of equal protection of the law under the fourteenth amendment. Defendant urges us to follow the reasoning and holding of *People v. Saffore*, 18 N.Y.2d 101, 218 N.E.2d 686. In

that case, like this one, defendant was convicted of a misdemeanor and given the maximum sentence of one year of imprisonment and required to pay a fine of \$500, the fine if not paid, to be served out at the rate of one day's imprisonment for each dollar remaining unpaid. The sentencing court knew defendant was without funds or property and was unable to pay the fine. The New York Court stated, "We do not hold illegal every judgment which condemns a defendant to confinement if he does not pay his fine. We do hold that, when payment of a fine is impossible, imprisonment to work out the fine, if it results in a total imprisonment of more than a year for a misdemeanor, is unauthorized by the Code of Criminal Procedure and violates the defendant's right to equal protection of the law, and the constitutional ban against excessive fines." 18 N.Y.2d 101, 218 N.E.2d 686, 688.

A limitation similar to that used in *Saffore* was applied in *Sawyer v. District of Columbia* (D.C.C.A.), 238 A.2d 314. was there held that "in every case in which the defendant is indigent, a sentence of imprisonment in default of payment of a fine which exceeds the maximum term of imprisonment which could be imposed under the substantive statute as an original sentence is an invalid exercise of the court's discretion for the reason that its only conceivable purpose is to impose a longer term of punishment than is permitted by law." (238 A.2d 314, 318.) This decision was based solely on the trial judge's discretion in enforcing payment of fine.

The one-year limitation applied in *Saffore* and the maximum-term-as-an-original-sentence limitation applied in *Sawyer* were both based on the construction of statutes involved in each case. This court has rejected both of these limitations in construing the statutes of this State authorizing imprisonment to enforce or satisfy the payment of a fine. (*Berkenfield v. People*, 191 Ill. 272; *People v. Jaraslowski*, 254 Ill. 299; *People ex rel. Hoyne v. Windes*, 283 Ill. 251.) Thus, in *Jaraslowski* it was stated: "There was no error in the judgment of the court in requiring plaintiff in error to work out his fine after his term of imprisonment expired, notwithstanding the maximum term of imprisonment was imposed." 254 Ill.

299, 305. Jaraslawski, a pauper, in addition to the fine, had received a one-year sentence which was the maximum term for the offense committed, as in *Sawyer*, and the maximum term for a misdemeanor, as in *Saffore*. The factual situation in *Windes* was the same and the court in following *Jaraslawski* stated: "The statute was intended to enable the State to collect in labor fines that could not be collected by execution, and applies as well to a case where a person is able to pay in labor but not in money as to a case where he is able to pay in money but unwilling to do so." 283 Ill. 251, 254-255.

The legislature has not acted to change the result reached in *Jaraslawski* or *Windes*. On the contrary, the comments of the Joint Committee to Revise the Illinois Criminal Code state with respect to section 1—7(k): "No provision is made for discharge on a pauper's oath since it is considered that on any conviction for a criminal offense the intent present is equivalent to the malice requirement in civil cases, in which discharge prior to the six months limit may be obtained only upon payment of the judgment." (Committee Comments, S.H.A. ch. 38, § 1—7, p. 31.) The legislative intent is clear that section 1—7(k) should apply to all defendants, rich or poor, and it cannot be construed to accomplish the result reached in *Saffore* or *Sawyer*.

Defendant has also directed our attention to section 180—6 of the Code of Criminal Procedure. (Ill. Rev. Stat. 1967, ch. 38, par. 180—6.) This section provides: "Whenever it shall be made satisfactorily to appear to the court, after all legal means have been exhausted, that any person who is confined in jail for any fine or costs or prosecution, for any criminal offense, hath no estate wherewith to pay such fine and costs, or costs only, it shall be the duty of the said court to discharge such person from further imprisonment for such fine and costs, which discharge shall operate as a complete release of such fine and costs: Provided, that nothing herein shall authorize any person to be discharged from imprisonment before the expiration of the time for which he may be sentenced to be imprisoned, as part of his punishment." He concedes that defendants have not been permitted to

be discharged from imprisonment for nonpayment of a fine, under this statute, unless they were physically unable to work at the institution of confinement or no work was provided there for them. (See *People v. Jaraslawski*, 254 Ill. 299; *People ex rel. Hoyne v. Windes*, 283 Ill. 251; *People v. Herman*, 245 Ill. App. 94; *People v. Cary*, 245 Ill. App. 100, and *People v. Hedenberg*, 21 Ill. App. 2d 504.) But he suggests that we now give the statute a liberal construction in order to avoid the constitutional issue of equal protection of the law.

As we have said, there is no denial of equal protection of the law when an indigent defendant is imprisoned to satisfy payment of the fine. Furthermore, once a statute has such a well settled construction over a long period of time and the legislature does not amend the statute, it would amount to a judicial amendment were we now to change our interpretation of it. (*Schwarz v. Schwarz*, 27 Ill.2d 140, 150.) This we cannot do.

For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

Judgment affirmed.

UNITED STATES OF AMERICA

State of Illinois)
) SS.
 Supreme Court)

At a Term of the Supreme Court, began and held in Springfield, on Monday, the thirteen day of January in the year of our Lord, one thousand nine hundred and sixty-nine, within and for the State of Illinois.

PRESENT: ROY J. SOLFISBURG, JR., CHIEF JUSTICE
 JUSTICE WALTER V. SCHAEFER
 JUSTICE BYRON O. HOUSE
 JUSTICE THOMAS E. KLUCZYNSKI
 JUSTICE RAY I. KLINGBIEL
 JUSTICE ROBERT C. UNDERWOOD
 JUSTICE DANIEL P. WARD
 WILLIAM J. SCOTT, ATTORNEY GENERAL
 ROBERT G. MILEY, MARSHAL
 ATTEST: JUSTIN TAFT, CLERK

Be It Remembered, that, to-wit: on the 29th day of January 1969, the same being one of the days of the term of Court aforesaid, the following proceedings were, by said court, had and entered of record, to-wit:

No. 41131
 67 MC4-53645

PEOPLE STATE OF ILLINOIS, APPELLEE

vs.

WILLIE E. WILLIAMS, APPELLANT

APPEAL FROM CIRCUIT COURT COOK COUNTY
 (Municipal Division)

And now, on this day, this cause having been argued by counsel, and the Court, having diligently examined and inspected as well the record and proceedings aforesaid, as matters and things therein assigned for error,

and now, being sufficiently advised of and concerning the premises for that it appears to the Court now here, that neither in the record and proceedings aforesaid, nor in the rendition of the judgment aforesaid, is there anything erroneous, vicious or defective, and in that record there is no error.

THEREFORE, it is considered by the Court that the judgment of the Circuit Court of Cook County (Municipal Division) aforesaid, BE AFFIRMED IN ALL THINGS AND STAND IN FULL FORCE AND EFFECT, notwithstanding the said matter and things therein assigned for error.

I, JUSTIN TAFT, Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, do hereby certify that the foregoing is a true copy of the final order of the said Supreme Court in the above entitled cause of record in my office.

In Witness Whereof, I have hereunto subscribed my name and affixed the Seal of said court this _____ day of _____, 19 ____.

Clerk,
Supreme Court of the
State of Illinois.

IN THE SUPREME COURT OF ILLINOIS

No. 41131

PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFF-APPELLEE

vs.

WILLIE E. WILLIAMS, DEFENDANT-APPELLANT

NOTICE OF MOTION

To: Edward V. Hanrahan
State's Attorney of Cook County
Chicago Civic Center
Room 1500
Chicago, Illinois

PLEASE TAKE NOTICE that on Tuesday, February 11, 1969, at 10:00 A.M., I shall appear before a Justice of the Illinois Supreme Court, 30th floor, Chicago Civic Center, and then and there present the attached motion to stay mandate pending appeal to the United States Supreme Court.

/s/ Stanley A. Bass
STANLEY A. BASS
Attorney For Appellant
Community Legal Counsel
116 South Michigan Avenue
Chicago, Illinois 60603
726-0157

February 5, 1969

IN THE SUPREME COURT OF ILLINOIS

No. 41131

Received, Criminal Appeals, Feb. 6, 1969, 500 Civic
Center, Edward V. Hanrahan, States Attorney

PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFF-APPELLEE

vs.

WILLIE E. WILLIAMS, DEFENDANT-APPELLANT

MOTION TO STAY MANDATE PENDING APPEAL TO THE
UNITED STATES SUPREME COURT

Defendant-Appellant, WILLIE E. WILLIAMS, by his attorney, Stanley A. Bass, respectfully moves, pursuant to Ill. Sup. Ct. Rule 368(c), to stay the mandate herein pending his appeal to the United States Supreme Court.

In support of this motion, counsel states:

1. Defendant-appellant was ordered released by this Court on \$500 bond pending appeal herein.

2. On January 29, 1969, this Court affirmed the judgment of the Circuit Court of Cook County, denying defendant's petition to vacate that portion of the sentencing order directing that he stand committed to jail in default of payment of \$500 fine and \$5.00 costs.

3. In so ruling, this Court declined to adopt the position taken by the New York Court of Appeals, in *People v. Saffore*, 18 N.Y. 2d 101, 218 N.E. 2d 686 (1966), and by the District of Columbia Court of Appeals, in *Sawyer v. District of Columbia*, 238 A. 2d 314 (1968), holding that sentence disparity based upon poverty violates Equal Protection of the Laws.

4. Counsel for defendant-appellant herein is presently preparing, and will timely file, his notice of appeal to the United States Supreme Court, and his Jurisdictional Statement. No rehearing will be sought in this Court.

5. Appellant's constitutional challenge to Chapter 38, Section 1-7(K), Ill. Rev. Stat., is substantial, and his appeal to the United States Supreme Court is taken in good faith, and not for the purpose of delay.

WHEREFORE, defendant-appellant prays that the mandate herein be stayed pending appeal to the United States Supreme Court.

Respectfully submitted,

/s/ Stanley A. Bass
STANLEY A. BASS

Community Legal Counsel
116 South Michigan Avenue
Chicago, Illinois 60603
726-0157

Dated: February 5, 1969

State of Illinois)
) ss
County of Cook)

STANLEY A. BASS, being first duly sworn on oath, deposes and says that he caused the above motion to be prepared, and that he knows the contents thereof to be true and correct to the best of his knowledge and belief.

/s/ Stanley A. Bass
Affiant

Subscribed and sworn to before me this 5th day of February, 1969.

/s/ [Illegible]
Notary Public

IN THE SUPREME COURT OF ILLINOIS

No. 41131

PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFF-APPELLEE.

vs.

WILLIE E. WILLIAMS, DEFENDANT-APPELLANT

DRAFT ORDER

This matter comes before the Court on motion of defendant-appellant to stay the mandate herein pending appeal to the United States Supreme Court,

And the Court being duly advised in the premises,

WHEREFORE, IT IS ORDERED that the mandate herein be stayed pending final disposition of appellant's appeal to the United States Supreme Court.

ENTER:

/s/ Daniel P. Ward
Justice

February 11, 1969

IN THE SUPREME COURT OF ILLINOIS

No. 41131

Received Criminal Appeals, Feb. 11, 1969, 500 Civic
Center, Edward V. Hanrahan, States Attorney

PEOPLE OF THE STATE OF ILLINOIS, PLAINTIFF-APPELLEE

vs.

WILLIE E. WILLIAMS, DEFENDANT-APPELLANT

NOTICE OF APPEAL TO THE SUPREME COURT
OF THE UNITED STATES

Notice is hereby given that Willie E. Williams, defendant above named, hereby appeals to the Supreme Court of the United States from the final judgment of this Court entered on January 29, 1969, affirming the final judgment of the Circuit Court of Cook County, Illinois. This appeal is taken pursuant to 28 U.S.C. § 1257 (2).

/s/ Stanley A. Bass
STANLEY A. BASS
Attorney For Defendant-
Appellant

Community Legal Counsel
116 South Michigan Avenue
Chicago, Illinois 60603
726-0157

February 11, 1969

PROOF OF SERVICE

Received Feb. 11, 1969
William J. Scott, Attorney General

[Clerk's Certificate to foregoing
transcript omitted in printing.]

SUPREME COURT OF THE UNITED STATES

No. 156 Misc., October Term, 1969

WILLIE E. WILLIAMS, APPELLANT

v.

ILLINOIS

ON CONSIDERATION of the motion for leave to proceed herein *in forma pauperis*,

IT IS ORDERED by this Court that the said motion be, and the same is hereby, granted.

January 19, 1970

SUPREME COURT OF THE UNITED STATES

No. 156 Misc., October Term, 1969

WILLIE E. WILLIAMS, APPELLANT

v.

ILLINOIS

APPEAL from the Supreme Court of the State of Illinois.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted. The case is transferred to the appellate docket as No. 1089, and placed on the summary calendar.

January 19, 1970